

Message Text

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ACTION SCI-06

INFO OCT-01 IO-13 ADP-00 ACDA-19 CIAE-00 INR-10 L-03

NSAE-00 NSC-10 RSC-01 SCEM-02 SS-15 H-03 DODE-00

PA-03 USIA-15 PRS-01 RSR-01 PM-07 AF-10 ARA-16 EA-11

EUR-25 NEA-10 /182 W

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P 171626Z AUG 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 3229

INFO AEC/GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 6810

EO: 11652: GDS

TAGS: PARM, IAEA, AS, US, EEC, JA

SUBJ: AUSTRALIA-IAEA NPT SAFEGUARDS AGREEMENT

REF: IAEA VIENNA 6528

1. WE RECOMMEND FOLLOWING REPLY TO AIDE MEMOIRE LEFT WITH SCI BY AUSTRALIAN EMBASSY ON JULY 26:

2. BEGIN TEXT: "THE UNITED STATES GOVERNMENT ENTIRELY AGREES WITH THE VIEW EXPRESSED IN THE AUSTRALIAN AIDE MEMOIRE OF JULY 26, THAT AN IMPARTIAL AND EFFECTIVE NUCLEAR SAFEGUARDS SYSTEM, ADMINISTERED BY THE IAEA, IS ESSENTIAL, PARTICULARLY IN THE MAJOR INDUSTRIALIZED NON-NUCLEAR WEAPON STATES. WE WOULD ALSO SHARE THE AUSTRALIAN GOVERNMENT'S CONCERN OVER ANY ATTEMPT TO APPLY SAFEGUARDS LESS IMPARTIALLY OR LESS EFFECTIVELY IN ANY NON-NUCLEAR WEAPON STATE OR GROUP OF SUCH STATES. WE DO NOT BELIEVE, HOWEVER, THAT THIS HAS OCCURRED OR IS LIKELY TO OCCUR SO LONG AS THE IAEA SECRETARIAT ADHERES TO THE GUIDELINES WHICH HAVE BEEN GIVEN IT BY THE BOARD OF GOVERNORS.

3. "THE AUSTRALIAN AIDE MEMOIRE SAYS THAT EQUAL TREATMENT SHOULD BE ACCORDED TO ALL NNWS PARTIES TO THE NPT. IF BY THIS IT IS
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MEANT THAT THE PRINCIPLES SET FORTH BY THE BOARD IN INFCIRC/153

SHOULD BE APPLIED IMPARTIALLY IN ALL NNWS HAVING AGREEMENTS WITH THE AGENCY PURSUANT TO THE NPT, THE UNITED STATES FULLY SHARES THE AUSTRALIAN VIEW. HOWEVER, IF IT IS MEANT THAT PRECISELY THE SAME ARRANGEMENTS FOR THE APPLICATION OF SAFEGUARDS, THE SAME TYPE, FREQUENCY AND DURATION OF INSPECTIONS, ETC., SHOULD BE MADE IN ALL SIMILAR FACILITIES, THEN IT SHOULD BE POINTED OUT THAT INFCIRC/153 CLEARLY ANTICIPATES DIFFERENT TREATMENT BY THE AGENCY IN DIFFERENT CIRCUMSTANCES, BOTH AS BETWEEN COUNTRIES AND IN THE SAME COUNTRY AT DIFFERENT STAGES OF EVOLUTION OF THE COUNTRY'S OWN NUCLEAR INDUSTRY AND SAFEGUARDS SYSTEM. IN PARTICULAR, PARAGRAPH 81 PROVIDES THAT "THE CRITERIA TO BE USED FOR DETERMINING THE ACTUAL NUMBER, INTENSITY, DURATION, TIMING AND MODE OF ROUTINE INSPECTIONS OF ANY FACILITY SHALL INCLUDE... (B) THE EFFECTIVENESS OF THE STATE'S ACCOUNTING AND CONTROL SYSTEM...."

4. "AS THE AUSTRALIAN GOVERNMENT WILL RECALL, THIS LANGUAGE, AND RELATED LANGUAGE IN PARAGRAPHS 7 AND 31, WAS DELIBERATELY CHOSEN IN THE COURSE OF THE NEGOTIATIONS THAT LED TO INFCIRC/153, AT THE URGING OF THOSE STATES WHICH WERE ALREADY UTILIZING HIGHLY-DEVELOPED ACCOUNTING AND CONTROL SYSTEMS. THEIR CONCERN WAS BOTH BUDGETARY, IN ORDER TO AVOID PAYING FOR THE COST OF TWO SYSTEMS WHICH MIGHT DUPLICATE RATHER THAN COMPLEMENT EACH OTHER, AND TECHNICAL, REFLECTING THE DESIRABILITY OF MAXIMIZING THE EFFECTIVENESS OF LOCAL AND REGIONAL SYSTEMS AND THEREBY FACILITATING, TO THE MAXIMUM EXTENT, THE EFFECTIVENESS OF THE IAEA'S SYSTEM. AT THE SAME TIME, THE LANGUAGE OF INFCIRC/153 LEFT OPEN THE OPTION FOR OTHER STATES, WHICH DID NOT HAVE EXISTING DOMESTIC SAFEGUARDS SYSTEMS, TO INSTALL MINIMUM SYSTEMS AND TO DEVELOP THEM OVER A PERIOD OF TIME, AS THEIR CAPABILITIES INCREASED.

5. "THE EURATOM-IAEA SAFEGUARDS AGREEMENT MUST BE VIEWED IN THE LIGHT OF THIS BACKGROUND. UNITED STATES REPRESENTATIVES HAVE BEEN ASSURED BY THE IAEA SECRETARIAT THAT THE EURATOM AGREEMENT, IN BOTH ITS PUBLIC AND ITS CONFIDENTIAL PORTIONS, IS CONSISTENT WITH INFCIRC/153 AND DOES NOT CONSTITUTE AN EXCEPTION TO ITS PRINCIPLES NOR SPECIAL TREATMENT FOR EURATOM, OTHER THAN THE IDENTIFICATION OF THE EURATOM SAFEGUARDS SYSTEM AS THE "NATIONAL" SYSTEM REFERRED TO IN INFCIRC/153, WITH RESPECT TO THE FIVE COUNTRIES PARTY TO THE AGREEMENT. IN NEGOTIATING THE PROVISIONS OF THE AGREEMENT AND ITS SUBSIDIARY DOCUMENTS RELATING TO THE NUMBER, INTENSITY, CONFIDENTIAL

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DURATION, TIMING AND MODE OF IAEA INSPECTIONS, THE SECRETARIAT HAS ASSURED US THAT IT COULD NOT NOR DID IT RECOGNIZE OR TAKE INTO ACCOUNT THE MULTINATIONAL CHARACTER OF EURATOM, OR ANY OTHER POLITICAL OR DIPLOMATIC CONSIDERATION. THE SECRETARIAT BELIEVES THAT THOSE PROVISIONS ARE FULLY JUSTIFIED BY THE EFFECTIVENESS OF WHAT THE AUSTRALIAN AIDE MEMOIRE REFERS TO AS THE "RECOGNIZED AND WELL-CONCEIVED" EURATOM SAFEGUARDS SYSTEM, AND ON THE BASIS OF THE COMMITMENTS EURATOM WAS PREPARED TO ENTER INTO REGARDING ITS FUTURE

ACTIVITIES AND THEIR COORDINATION WITH THOSE OF THE AGENCY.

6. "IT THEREFORE FOLLOWS, IN THE UNITED STATES' VIEW, THAT ANY STATE WHICH IS PREPARED TO COMMIT ITSELF TO ESTABLISHING AND OPERATING A NATIONAL SAFEGUARDS SYSTEM AT THE SAME LEVEL OF EFFECTIVENESS AND EFFORT AS THE EURATOM SYSTEM AND WITH THE SAME DEGREE OF COORDINATION WITH IAEA, WOULD BE ENTITLED TO SUBSIDIARY ARRANGEMENTS SIMILAR TO THOSE NEGOTIATED BY THE IAEA AND EURATOM. ON THE OTHER HAND, A STATE WHICH

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NSAE-00 NSC-10 RSC-01 SCEM-02 SS-15 H-03 DODE-00

PA-03 USIA-15 PRS-01 PM-07 AF-10 ARA-16 EA-11 EUR-25

NEA-10 RSR-01 /182 W

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P 171626Z AUG 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 3230

INFO AEC GERMANTOWN PRIORITY

C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 6810

PREFERRED, FOR FINANCIAL OR OTHER REASONS, NOT TO UNDERTAKE EXTENSIVE COMMITMENTS FOR ITS DOMESTIC SAFEGUARDS SYSTEM, BUT ONLY TO MAINTAIN THE MINIMUM FEATURES OF AN ACCOUNTING AND CONTROL SYSTEM NECESSARY TO MEET THE REQUIREMENTS OF INFCIRC/153, COULD DO SO. SUCH A MINIMUM SYSTEM MIGHT NOT INCLUDE INSPECTIONS IN FACILITIES BY THE DOMESTIC SYSTEM. ITS SUBSIDIARY ARRANGEMENTS WOULD NECESSARILY BE DIFFERENCE FROM THOSE OF STATES WITH HIGHLY-DEVELOPED NATIONAL SAFEGUARDS SYSTEMS, WHICH INCLUDE SUCH INSPECTIONS. SUCH ARRANGEMENTS WOULD NOT, IN OUR VIEW, REPRESENT AN UNEQUAL OR DISCRIMINATORY APPLICATION OF THE PRINCIPLES OF INFCIRC/153, NOR COULD THE AGENCY'S ACTIVITIES IN SUCH CIRCUMSTANCES BE CHARACTERIZED AS BEING MORE INTRUSIVE SINCE THEY WOULD STEM FROM VOLUNTARY DECISIONS OF THE STATE CONCERNED AS TO THE EFFORT AND FUNCTIONS TO BE EMPLOYED BY ITS

DOMESTIC SYSTEM.

7. "IT WILL BE EVIDENT FROM THE FOREGOING THAT IN OUR VIEW THE CONCEPT OF INSPECTION BY NATIONAL OR REGIONAL ORGANIZATIONS THAT ARE FUNCTIONALLY INDEPENDENT OF THE FACILITY OPERATORS IS ENTIRELY COMPATIBLE WITH THE NPT AND WITH INFCIRC/153 AS LONG AS PROVISION IS MADE IN THE AGREEMENT WITH IAEA FOR ROUTINE INSPECTIONS BY THE IAEA AS WELL. IT IS OUR UNDERSTANDING THAT THE IAEA-EURATOM AGREEMENT DOES PROVIDE FOR SUCH INSPECTIONS.
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THE EFFORT EXPENDED FOR THESE INSPECTIONS IN A PARTICULAR PLANT MAY BE LESS THAN FOR IAEA INSPECTION OF IDENTICAL PLANTS IN SOME NON-EURATOM COUNTRIES, BUT SHOULD NOT BE LESS THAN FOR SUCH A PLANT IN ANY NON-EURATOM COUNTRY WITH COMPARABLE DOMESTIC SAFEGUARDS COORDINATED WITH IAEA. WHETHER JAPAN WILL BE SUCH A COUNTRY, THE UNITED STATES GOVERNMENT IS NOT, AT THE PRESENT TIME, ABLE TO JUDGE; BUT THE QUESTION WILL UNDOUBTEDLY BE DISCUSSED IN THE CURRENT IAEA-JAPAN NEGOTIATIONS. THE UNITED STATES HAS NO REASON TO BELIEVE THAT THE IAEA NEGOTIATORS WILL BE ANY LESS IMPARTIAL OR COMPETENT IN THEIR DISCUSSIONS WITH JAPAN THAN THEY HAVE BEEN IN OTHER NEGOTIATIONS, INCLUDING THOSE HELD WITH US IN REGARD TO OUR VOLUNTARY OFFER.

8. "THE EFFECTIVENESS AND IMPARTIALITY OF THE IAEA'S NEGOTIATORS AND INSPECTORS MUST, OF COURSE, BE KEPT UNDER CLOSE REVIEW BY THE MEMBER STATES. THE UNITED STATES LOOKS FORWARD TO CONTINUED CO-OPERATION WITH AUSTRALIA IN THAT EFFORT. WE DO NOT, HOWEVER, BELIEVE THAT PUBLICATION OF SUBSIDIARY ARRANGEMENTS IS A PRACTICAL MEANS TO THAT END, BECAUSE OF THE PROPRIETARY COMMERCIAL INFORMATION WHICH WOULD BE COMPROMISED. THE ISSUES RAISED BY THE AUSTRALIAN GOVERNMENT ARE IMPORTANT ONES AND WE APPRECIATE THE OPPORTUNITY TO EXPRESS FRANKLY OUR VIEWS ON THEM." END OF PROPOSED TEXT.

9. IF, IN FURTHER DISCUSSIONS, DEPT ENCOUNTERS FURTHER AUSTRALIAN CONCERN PER PARA 13 AIDE MEMOIRE, RE SPECIAL CATEGORY OF INDUSTRIALIZED STATES RECEIVING SPECIAL TREATMENT UNDER NPT SAFEGUARDS AGREEMENTS, DEPT MAY WISH TO RECALL, FOR THEIR BENEFIT, THAT NEGOTIATING HISTORY OF INFCIRC/153 HOLDS THAT ONLY ONE KIND OF NUCLEAR INDUSTRY RECEIVES SPECIAL TREATMENT UNDER NPT SAFEGUARDS AGREEMENTS; NAMELY, MINING AND MILLING OF URANIUM AND THORIUM AS REFLECTED IN APAS 33 AND 4 OF INFCIRC/153. THOSE PROVISIONS WERE INCLUDED AT THE INSISTENCE OF THOSE NON-NUCLEAR WEAPON STATES PARTICULARLY AUSTRALIA, WHOSE NUCLEAR INDUSTRY WAS PRIMARILY CONCERNED WITH MINING AND MILLING.

10. PLEASE AIRPOUCH COPY OF DEPT'S NOTE AS FINALLY TRANSMITTED TO AUSTRALIAN EMBASSY. LABOWITZ

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